IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 445 OF 2006

MRS. GLORIA D'SOUZA AND ANR., ...Petitioners

Versus

MRS. MARIA MAGDALENA FERNANDES AND 4 ORS., ...Respondents

Ms. Amira Razaq, Advocate for the petitioners.

Mr.M.B. D'Costa, Sr. Advocate with Mr. J.A. Lobo, Advocate for the respsondents.

Coram:- J. N. PATEL, J.

Date:- 15th December, 2006

P.C.

1. The petitioners are the original defendants who moved an application under Order VI Rule 17 of C.P.C., for carrying out amendments to the pleadings i.e. their written statement and also placed on record certain documents which came within their knowledge after the litigation had travelled till the stage of arguments.

2. The Trial Court rejected the application on two grounds, firstly that it would change the nature of the stand taken by the petitioners and secondly that the application was rejected as belated for which no justification had been made and the Court came to the conclusion that the proposed amendment was not material for the decision of the issue.

3. The learned Counsel for the respondents submitted that the respondents also propose to file application for amendment so as to bring certain documents on record.

4. In view of the fact that the parties now propose to place on record

certain documents by way of amendment and also carry out consequential amendments in their respective pleadings, it will be proper that the applications are allowed so that multiplicity of litigations can be prevented. It appears that the parties are at issue over the property which are having certain survey numbers and their attempt is to place before the Court the correct factual situation. It is submitted that the identity of the property is not in dispute, except for the issue relating to title. Therefore the impugned orders are quashed and set aside.

5. The petition is allowed. Both the applications for amendment are allowed which is to be carried out within two weeks, with liberty to the respondents/plaintiffs to carry out consequential amendment by placing on record additional documents and also to carry out amendment if so required.

6. Though the case is at the stage of arguments but due to amendments sought if the witnesses are required to be examined for the said purpose or if the witnesses are already examined and are required to be recalled, the Court shall permits them to do so.

7. The learned Counsel for the respondents submit that he will move an application for consequential amendment within two weeks thereafter and the parties agree that they will extend all co-operation to the Trial Court for expeditious disposal as it is almost concluded, but for these subsequent amendments which have been sought and permitted.

8. The petition stands disposed of accordingly.

J. N. PATEL, J.

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